

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATIONS NO. A/NE-LYT/666 and 667

- Applicants** : Mr. PANG Kam Sing (Application No. A/NE-LYT/666)
Mr. PANG Adrian Kai Yuen (Application No. A/NE-LYT/667)
all represented by Mr. PANG Chi Tong
- Sites** : Lot 1603 S.B (Application No. A/NE-LYT/666)
Lot 1603 S.C (Application No. A/NE-LYT/667)
all in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Areas** : 141.7 m² (about) (Application No. A/NE-LYT/666)
113.0 m² (about) (Application No. A/NE-LYT/667)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1 The Proposals

- 1.1 The applicants, who claimed to be indigenous villagers¹, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Kan Tau Tsuen, Fanling (**Plans A-1 and A-2a**). The Sites fall within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claimed themselves to be indigenous villagers of Fanling Village of Fanling Heung. Their eligibility for Small House concessionary grants have yet to be ascertained.

1.2 Details of each of the two proposed NTEHs (Small Houses) are as follows:

Total Floor Area	:	195.09 m ²
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m ²

Layouts of the two proposed Small Houses (including septic tanks) under applications No. A/NE-LYT/666 and 667 are shown on **Drawings A-1 and A-2** respectively. The applicants indicate that the uncovered areas of their Sites would be used as gardening and agricultural areas of their proposed Small Houses.

1.3 The Sites are the subject of a previous planning application No. A/NE-LYT/545 for development of three Small Houses. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.8.2014 and the planning permission is valid up to 22.8.2018. The applicants for Small Houses at Lots 1603 S.B and S.C in D.D. 76 (i.e. Applications No. A/NE-LYT/666 and 667) are the same as the current applications. Compared with the previous application, major development parameters including the layouts of the proposed Small Houses under the current applications are the same.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received on 11.5.2018.

2 Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in part 9 of the Application Forms in **Appendices Ia and Ib** respectively. They can be summarized as follows:

- (a) the applicants are indigenous villagers of Fanling Village and are each entitled for the construction of a Small House under the Government's Small House Policy; and
- (b) the Sites were the subject of a previously approved planning application (No. A/NE-LYT/545). A fresh application is submitted due to the change of one of the applicants under the previously approved planning application.

3 Compliance with the "Owner's Consent/Notification" Requirements

The applicants are the sole "current land owner" of their respective lots. Detailed information would be deposited at the meeting for Members' inspection.

4 Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5 Previous Application

- 5.1 The Sites are the subject of a previous planning application No. A/NE-LYT/545 for development of three Small Houses in which the applicants for Small Houses at Lots 1603 S.B and S.C in D.D. 76 (i.e. Applications No. A/NE-LYT/666 and 667) are the same as the current applications. The application was approved with conditions by the Committee on 22.8.2014 mainly on the grounds that the application generally complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the village ‘environs’ (“VE”); there was a general shortage of land within the “Village Type Development” (“V”) zone of Kan Tau Tsuen at the time of consideration; and the proposed Small House developments were not incompatible with the surrounding area. Compared with the previous application, major development parameters including the layouts of the proposed Small Houses under the current application are the same.
- 5.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

6 Similar Applications

- 6.1 There are 85 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 76 applications involving 62 sites were approved with conditions by the Committee of the Board between March 2001 and June 2018 mainly on the considerations that the applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand; the proposed Small House developments were not incompatible with the surrounding rural and village environment; the proposed developments were not expected to have significant adverse traffic, drainage, environmental and/or landscape impacts on the surrounding area; and similar applications were approved by the Committee. Some of the approval cases are in the vicinity of the Sites (**Plan A-2a**).
- 6.3 The other nine applications involving eight sites were rejected by the Committee or the Board on review between September 2003 and December 2017 mainly on the considerations that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village; the proposed developments were not in line with the planning intention of the “AGR” zone; and approval of the applications would set undesirable precedents for similar applications.
- 6.4 Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

7 The Sites and their Surrounding Areas (Plans A-1, A-2a and A-2b, aerial photo on Plan A-3 and site photo on Plan A-4)

- 7.1 The Sites are:
- (a) located to the southeast of the “V” zone of Kan Tau Tsuen;

- (b) currently vacant, flat, and partly overgrown with grass; and
- (c) accessible on foot via an existing footpath on a vacant land connecting a village road (**Plan A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by active/fallow agricultural land, village houses and temporary structures;
- (b) to the north are village houses intermixed with temporary structures for domestic purpose and to the further northeast is a plant nursery;
- (c) to the northwest is the village proper of Kan Tau Tsuen;
- (d) to the east and southeast are active/fallow agricultural land, vacant/unused land and the Tan Shan River; and
- (e) to the west and southwest are the sites of planning applications for Small House developments approved by the Committee (**Plan A-2b**).

8 Planning Intention

The planning intention of the “AGR” zone in Lung Yeuk Tau and Kwan Tei South area is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9 Comments from Relevant Government Departments

9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Sites - Footprints of the proposed Small Houses	- -	100% 100%	- The Sites and the footprint of the proposed Small Houses fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Sites (Application No. A/NE-LYT/666) (Application No. A/NE-LYT/667)	43.9% 100%	56.1% -	- DLO/N, LandsD advises that portions of the footprints (more than 50%) of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Footprints of the proposed Small Houses (Application No. A/NE-LYT/666) (Application No. A/NE-LYT/667)	66.4%	33.6%	
		100%	-	
3.	Sufficient land in “V” zone to satisfy outstanding Small House application and 10-year Small House demand?		✓	- Land required to meet the Small House demand in Kan Tau Tsuen: about 4.3 ha (equivalent to 172 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 76 while the 10-year Small House demand forecast for the same village is 96 ² . - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 2.28 ha (equivalent to 91 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) stated that the Sites are fallow land covered by grasses. The agricultural activities in the vicinity are active. Agricultural infrastructure such as road access and water supply are available. As the Sites possess potential for agricultural rehabilitation, the applications are not supported from agriculture point of view.
5.	Compatible with surrounding area/development?	✓		- The proposed Small Houses are not incompatible with the surrounding rural setting and environment dominated by agricultural land, village houses and temporary structures (Plan A-2a).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

² Among the 76 outstanding Small House applications, 17 of them fall within the “V” zone and 59 straddle or outside the “V” zone. For those 59 applications straddling or being outside the “V” zone, 35 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments are not expected to be significant, such type of developments outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the applications involve construction of two Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?		✓	The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning point of view. - An approval condition on the submission and implementation of landscape proposal is recommended for Application No. A/NE-LYT/666. Landscape condition is

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				not recommended for Application No. A/NE-LYT/667 as the building layout almost occupied the entire Site leaving inadequate space for tree planting.
13.	Local objections conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that he has consulted the locals. The Indigenous Inhabitant Representative and the Resident Representative of Kan Tau Tsuen support the proposal mainly on the grounds that the application sites are adjacent to the “V” zone of Kan Tau Tsuen and the proposed developments would not caused adverse drainage and traffic impacts on the surrounding areas. The Chairman of Fanling District Rural Committee (FDRC) has no comment on the applications.

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Details of comments from Government departments are at **Appendix V**.

- (a) District Lands Officer/North, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) Director of Agriculture, Fisheries and Conservation; and
- (i) District Officer (North), Home Affairs Department.

9.3 The following Government departments have no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

10 Public Comments Received During Statutory Publication Period

On 18.5.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, five public comments for each of applications were received (**Appendix VI**). A North District Council member and Chairmen of Sheung Shui District Rural Committee and FDRC indicate no comment on the applications. Designing Hong Kong Limited and an individual object to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone; approval of the applications encourage the creation of

further village clusters and the prevalence of random developments with septic tanks; high potential for agricultural rehabilitation of the Sites; shortage of land of parking and access; and adverse environmental impacts on the surrounding areas caused by the proposed developments.

11 Planning Considerations and Assessments

- 11.1 The proposed Small House developments are not in line with the planning intention of the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kan Tau Tsuen is 76 while the 10-year Small House demand forecast for the same village is 96. According to the latest estimate by PlanD, about 2.28 ha (equivalent to 91 Small House sites) of land are available in the “V” zone of Kan Tau Tsuen for Small House development (**Plan A-2b**). DLO/N, LandsD advises that majority portion of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen.
- 11.3 The Sites are situated to the southeast of the “V” zone of Kan Tau Tsuen, which are currently vacant, flat, partly overgrown with grass and accessible on foot via an existing footpath (**Plans A-3 and A-4**). The village proper of Kan Tau Tsuen is located to the northwest and there are approved Small House applications to the west and southwest of the Sites. The proposed Small Houses are not incompatible with the surrounding rural landscape character dominated by active/fallow agricultural land, village houses, temporary structure and vacant/unused land. Significant adverse landscape impact arising from the proposed developments is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T has reservation on the applications and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments involve two Small Houses, they could be tolerated. Other relevant Government departments, including DEP, CE/MN of DSD and D of FS, have no adverse comment on or no objection to the applications.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 2.28 ha or equivalent to 91 Small House sites) is still available within the “V” zone to meeting the outstanding 76 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, it is noted that the Sites are the subject of a previous approved planning application (No. A/NE-LYT/545) for three Small Houses which was approved by the Committee in August 2014 and two of the applicants are the same as the current applications. Besides, the Sites are in close proximity to the “V” zone of Kan Tau Tsuen and bounded by the existing cluster of village houses and approved applications for Small House development in the north, south and west. The implementation of those approved Small House applications are

forming new village clusters in the locality (**Plans A-2a and A-2b**). In this regard, sympathetic consideration might be given to the applicants.

- 11.5 There are 85 similar applications for Small House development in the vicinity of the Sites and 76 of them were approved by the Committee between 2001 and 2018 (**Plan A-1**) mainly on considerations that they complied with the Interim Criteria; the proposed Small Houses were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. Some of the approved cases are in close proximity to the Sites (**Plan A-2a**). The other nine similar applications were rejected by the Committee or the Board on review between 2003 and 2017 mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as the proposed Small House footprints fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village. The Sites are adjacent to some approved applications. There has not been major change in planning circumstances of the area since the approval/rejection of these similar applications.
- 11.6 Regarding the adverse public comments mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone; approval of the applications encourage the creation of further village clusters and prevalence of random developments with septic tanks; high potential for agricultural rehabilitation of the Sites; shortage of land of parking and access; and adverse environmental impacts on the surrounding areas caused by the proposed developments, Government departments’ comments and planning assessments above are relevant.

12 Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 6.7.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions for Application No. A/NE-LYT/666

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Approval Conditions for Application No. A/NE-LYT/667

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and

- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VII**.

12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone in the Lung Yeuk Tau and Kwan Tei South area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the "V" zone of Kan Tau Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

13 Decision Sought

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14 Attachments

Appendices Ia and Ib	Application Forms with Attachments received on 11.5.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the "AGR" Zone in the vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses

Drawings A-1 and A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Kan Tau Tsuen for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
JULY 2018**